

**From:** [Blake Woodard](#)  
**To:** [E-OHPSCA-ER.EBSA](#)  
**Subject:** IRS Notice 2012-59: Comment submission re 90-day waiting period  
**Date:** Tuesday, September 04, 2012 9:10:59 PM

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Dear DOL, HHS, and Treasury representatives –

IRS Notice 2012-59 is silent on the common practice among employer plans of having coverage begin at the beginning of the month and terminate at the end of the month, regardless of an employee's start or termination date. Many employer health plans impose a 90-day waiting period but additionally require that coverage begins on the first day of the calendar month on or after that 90-day waiting period. The first of the month requirement is for administrative convenience and also for clarity. On the back end, many of these employer plans continue coverage until the end of the month of termination., again for administrative convenience and clarity.

Such a first-of-the-month provision is similar to employer retirement plans that impose a first-of-the-month or first-of-the-quarter provision after the entry period is met.

I request that you interpret Section 2708 of the PHS Act to permit a health plan waiting period that is no greater than the first day of the calendar month on or after 90 days of employment. Although this will result in a waiting period that is greater than 90 days in most instances, employees will benefit from a similar provision that provides coverage until the end of the month of termination. Health plans and participants alike will benefit from uniform start and termination times, and premiums and COBRA premiums will not have to be pro-rated for partial months.

Respectfully,

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